1886.

SUPREME COURT OF THE UNITED STATES.

No. 181.

JANE CARROLL, MARIA C. FITZHUGH, AND OTHERS, DEVISEES OF DANIEL CARROLL, OF DUDINGTON, PL'TFFS IN ERROR,

vs.

NICHOLAS DORSEY, NOAH DORSEY, ACHSAH DORSEY, TRISTRAM S. DORSEY, HEIRS-AT-LAW OF ALFRED R. DOWSON, DECEASED.

APPEAL FROM THE CIRCUIT COURT U. S., FOR THE DISTRICT OF COLUMBIA, HOLDEN IN AND FOR THE COUNTY OF WASHINGTON.

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UNITED STATES OF AMERICA, *ss:*

The President of the United States, to the judges of the circuit court of the District of Columbia for the county of Washington, greeting:

Because in the record and proceedings, as also in the rendition of the judgment of a plea which is in said court, before you, or some of you, between John Doe, on the demise of Jane Carroll, Maria C. Fitzhugh, and others, devisees of Daniel Carroll, of Dudington, plaintiff, and Nicholas Dorsey, Noah Dorsey, Achsah Dorsey, Tristram S. Dorsey, heirs-at-law of Alfred R. Dowson, defendant, a manifest error hath happened to the great damage of the said plaintiff, as by his complaint appears, we being willing that error, if any hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ.

And that the record and proceedings aforesaid being inspected, the said Supreme Court may cause further to be done therein to correct that, which of right and according to the laws and custom of the United States should be done.

Witness the Hon. Roger B. Taney, Chief Justice of said Supreme Court.

Issued the 17th day of December, 1853.

JNO. A. SMITH,

Clk Circ't Ct. Dist. of Col'a for Wash'n. Co.

Filed 17th Dec., 1853.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to Nicholas Dorsey, Noah Dorsey, Achsah Dorsey, Tristram S. Dorsey, heirs at law of Alfred H. Dowson, greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, pursuant to a writ of error filed in the clerk's office of the circuit court of the District of Columbia for the county of Washington, wherein John Doe, on the demise of Jane Carroll, Mariah C. Fitzhugh, and others, devisees of Daniel Carroll, of Dudington, is plaintiff in error, and you are defendants in error, to show cause, if any there be, why judgment rendered against said plaintiff in error should not be corrected, and why speedy justice should not be done to the parties in this behalf.

W. CRANCH.

Service acknowledged.

JOS. H. BRADLEY,
Deft's Att'y.

Appeal bond.

Know all men by these presents, that we, Maria C. Fitzhugh, Ann C. Carroll, and William Hickey, are held and firmly bound unto Nicholas Dorsey, Noah Dorsey, Achsah Dorsey, and Tristram S. Dorsey, in the full and just sum of three hundred dollars, lawful money, to which payment, well and truly to be made and done, we bind ourselves and each of us, our and each of our heirs, executors, and administrators, jointly and severally, firmly by these presents. Sealed with our seals and dated this twenty-seventh day of May, eighteen hundred and fifty-three.

Whereas lately, at a circuit court of the District of Columbia sitting for Washington county, at October term, eighteen hundred and fifty-one, in a suit pending in the said court, wherein John Doe, on the demise of Jane Carroll, Mariah C. Fitzhugh, and others devisees of Daniel Carroll, of Dudington, was plaintiff and the said Nicholas Dorsey, Noah Dorsey, Achsah Dorsey, Tristram S. Dorsey, heirs-at-law of Alfred R. Dawson, deceased, were defendants, judgment was rendered against the said plaintiff; and he having obtained a writ of error and filed a copy thereof in the clerk's office of the said circuit court to reverse the judgment in the aforesaid suit, and a citation directed to the said Nicholas Dorsey, Noah Dorsey, Achsay Dorsey, and Tristram S. Dorsey, heirs-at-law of Alfred R. Dawson, deceased, citing and admonishing them to be and appear at a Supreme Court of the United States to be holden at the city of Washington, on the first Monday of December next:

Now the condition of the above obligation is such, that if the said John Doe, on the demise of Jane Carroll, Maria C. Fitzhugh, and others, devisees of Daniel Carroll, of Dudington, shall prosecute his said writ with effect, and answer all damages and costs if he fails to make his plea good, then the above obligation to be null and void, otherwise to be and remain in full force and virtue.

MARIA C. FITZHUGH, [SEAL.]
ANN C. CARROLL, [SEAL.]
W. HICKEY. [SEAL.]

Signed, sealed, and delivered, in the presence of—
JAS. CRANDELL,
C. W. C. DUNNINGTON.

Approv'd by order of the co't, 17 Dece., 1853.
W. CRANCH.

DISTRICT OF COLUMBIA, *to wit:*

At a circuit court of the District of Columbia, begun and held in

and for the county of Washington, at the city of Washington, on the third Monday of October, being the twentieth day of the same month, in the year of our Lord one thousand eight hundred and fifty-one, and of the independence of the United States the seventy-sixth:

Present, Hon. William Cranch, chief judge; Hon. James S. Morsell, James Dunlop, assistant judges; Richard Wallach, esq., marshal; Jno. A. Smith, clerk.

In the record of proceedings of the said court, amongst others, are the following, to wit:

JANE CARROLL, MARIA C. Fitzhugh, and others, devisees of Daniel Carroll, of Dudington,
vs.
NICHOLAS DORSEY, NOAH Dorsey, and others, heirs-at-law of Alfred R. Dowson, deceased.

Be it remembered, that heretofore, to wit, on the second day of October, in the year one thousand eight hundred and forty-seven, John Doe, lessee of Jane Carroll, Maria C. Fitzhugh, and others, devisees of Daniel Carroll, of Dudington, by Messrs. *Messrs.* Coxe & Redin, their attorneys, declared in the circuit court here against Richard Roe in a plea of trespass and ejectment, with a notice thereto annexed, in manner and form following, to wit:

Nar.

DISTRICT OF COLUMBIA,
Washington county, to wit:

Richard Roe, of the county aforesaid, was attached to answer unto John Doe in a plea wherefore, with force and arms, &c., at the county aforesaid, he entered into those lots, pieces, or parcels of ground, in the city of Washington, in the county aforesaid, being lot number nine, and parts of lots number ten, eleven, and twelve, in square numbered six hundred and eighty-seven, beginning twenty-six feet from the southwest corner of said square, on the north side of north A street, and running thence east seventy-eight feet on said north A street to the east line of said lot number nine; thence north with the east line of said lots, numbered nine, ten, eleven and twelve, one hundred and sixty-four feet and three inches; thence west seventy-eight feet; thence south one hundred and sixty-four feet and three inches to the beginning, with the messuages, buildings, and appurtenances to the same belonging, which Daniel Carroll, of Dudington, demised to the said John Doe for a

term of years, which is not yet expired, and ejected the said John from the same, and other wrongs to him there did to his great damage, and against the peace, &c.; and also, wherefore, with force and arms, &c., at the said county, the said Richard entered into those other lots, pieces, or parcels of ground, in the said city of Washington, being part of lot number nine, in square number six hundred and eighty-seven, beginning at the southeast corner of said lot, and running thence west thirty-nine feet; thence north one hundred and four feet and nine inches to the back line of said lot; thence east, along the back line of said lot thirty-nine feet; thence south one hundred and four feet and nine inches to the beginning, with the messuages, buildings, and appurtenances to the same belonging, which the president and directors of the Bank of Washington demised to the said John Doe for a term of years, which is not yet expired, and ejected the said John from the same, and other wrongs to him there did to his great damage, and against the peace, &c.; and also, wherefore, with force and arms, &c., at the said county, the said Richard entered into those other lots, pieces, or parcels of ground, in the said said city of Washington, being part of lot number nine, in square number six hundred and eighty-seven, beginning at the southeast corner of said lot, and running thence west thirty-nine feet; thence north one hundred and four feet and nine inches to the back line of said lot; then east along the back line of said lot thirty-nine feet; then south one hundred and four feet nine inches to the beginning, with the messuages, buildings, and appurtenances to the same belonging, which William Gunton, George Bomford, Jacob Gideon, Archibald Henderson, Stanislaus Murray, Benjamin F. Middleton, and John F. Callan demised to the said John Doe for a term of years, which is not yet expired, and ejected him from the same, and other wrongs to him there did to his great damage, and against the peace, &c.; and also, wherefore, with force and arms, &c., at the said county, the said Richard entered into those other lots, pieces, or parcels of ground, in the said city of Washington, being lot number nine, and parts of lots number ten, eleven, and twelve, in square number six hundred and eighty-seven, beginning twenty-six feet from the southwest corner of said square, on the north side of north A street, and running thence east seventy-eight feet on the said north A street to the east line of said lot number nine; thence north with the east line of said lots number nine, ten, eleven, and twelve, one hundred and sixty-four feet and three inches; thence west seventy-eight feet; thence south one hundred and sixty-four feet and three inches to the beginning, with the messuages, buildings, and appurtenances to the same belonging, which William A. Bradley and John H. Reily demised to the said John Doe for a term which is not yet expired, and ejected him from the same, and other wrongs to him there did, to his great damage, and against the peace, &c.; and thereupon the said John Doe, by Rich-

ard S. Coxe and William Redin, his attorneys, complains, that whereas the said Daniel Carroll, of Duddington, heretofore, to wit, on the seventh day of August, in the year one thousand eight hundred and forty-seven, at the city of Washington, in the county aforesaid, had demised the said tenements and hereditaments first above mentioned, with the appurtenances, to the said John Doe, to have and to hold the same with the appurtenances, to him and his assigns, from the sixth day of August, in the year aforesaid, for and during and unto the full end and term of fifty years from thence next ensuing, and fully to be complete and ended. By virtue of which said demise, the said John Doe entered into the said tenements first above mentioned, with the appurtenances, and became and was thereof possessed for the said term so to him thereof granted; and being so thereof possessed, the said Richard Roe, afterwards, to wit, on the ninth day of August, in the year aforesaid, with force and arms, &c., entered into the said tenements first above mentioned, with the appurtenances, which the said Daniel Carroll, of Duddington, had demised to the said John Doe in manner and for the term aforesaid, which is not yet expired, and ejected him from his said farm. And also, that whereas, the said president and directors of the said Bank of Washington, heretofore, to wit, on the seventh day of August, in the year aforesaid, at the city of Washington, in the county aforesaid, hath demised the said hereditaments secondly above mentioned, with the appurtenances, to the said John Doe, to have and to hold the same to him and his assigns from the sixth day of August, in the year aforesaid, for and during, and with the full end and term of fifty years from thence next ensuing, and fully to be completed and ended. By virtue of which said demise last mentioned, the said John Doe entered into the said hereditaments secondly above mentioned, and became and was thereof possessed for the said last-mentioned term so to him thereof granted; and being so thereof possessed, the said Richard Roe, afterwards, to wit, on the ninth day of August, in the year aforesaid, with force, and arms, &c., entered into the same hereditaments secondly above mentioned, demised in manner and for the term last aforesaid, which is not yet expired, and ejected him from his said farm last mentioned, and other wrongs, &c. And also, that whereas the said William Gunton, George Bomford, Jacob Gideon, Archibald Henderson, Stanislaus Murray, Benjamin F. Middleton, and John F. Callan, heretofore, to wit, on the seventh day of August, in the year aforesaid, at the city of Washington, in the county aforesaid, had demised the said hereditaments thirdly above mentioned, with the appurtenances, to the said John Doe, to have and to hold the same to him and his assigns from the sixth day of August, in the year aforesaid, for and during the term of fifty years thence next ensuing, and fully to be complete and ended. By virtue of which said last-mentioned demise, the said John Doe entered into the said hereditaments thirdly above mentioned, and

became and was thereof possessed for the said last-mentioned term so to him thereof granted; and being so thereof possessed, the said Richard Roe, afterwards, to wit, on the ninth day of August, in the year aforesaid, with force and arms, &c., entered into the said tenements thirdly above mentioned, with the appurtenances so demised in manner, and for the term last aforesaid, which is not yet expired, and ejected him from his last-mentioned farm, and other wrongs, &c. And also, that whereas, the said William A. Bradley and John H. Reiley, heretofore, to wit, on the seventh day of August, in the year aforesaid, at the city of Washington, in the county aforesaid, had demised the said hereditaments fourthly above mentioned, with the appurtenances, to the said John Doe, to have and to hold the same to him and his assigns from the sixth day of August, in the year aforesaid, for and during the term of fifty years thence next ensuing, and fully to be complete and ended. By virtue of which said last-mentioned demise, the said John Doe entered into the said hereditaments fourthly above mentioned, and became and was thereof possessed for the said last-mentioned term so to him thereof granted; and being so thereof possessed, the said Richard Roe, afterwards, to wit, on the ninth day of August, in the year aforesaid, with force and arms, &c., entered into the said tenements fourthly above mentioned, so demised in manner and form, for the term last aforesaid, which is not yet expired, and ejected him from his said last-mentioned farm, and other wrongs to the said John Doe then and there did to the great damage of the said John Doe, and against the peace and government of the United States; wherefore he saith, that he is required and hath sustained damage to the value of one thousand dollars, and therefore he brings suit, &c.

COXE & REDIN,
For Pl'tff.

Notice to ten't in pos'n.

Mr. Alfred R. Dowson:

I am informed that you are in possession of or claim title to the premises in this declaration of ejectment mentioned, or some part thereof; and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear in the circuit court of the District of Columbia and county of Washington, at October term, 1847, by some attorney of that court, and then and there, by rule of said court, cause yourself to be made defendant in my stead; otherwise I shall suffer judgment to be entered against me by default, and you will be turned out of possession.

Yr's,

RICHARD ROE.

2d Octo., 1847.

A copy of which said declaration and notice was made and sent to the marshal of the District of Columbia, thereon endorsed: "To be served on the defendants, the tenants in possession, or set up on the premises at least 10 days before the return thereof."

At which mentioned third Monday of October, in the year of our Lord one thousand eight hundred and forty-seven, being the day of the return of the aforegoing declaration in ejectment, comes into the said circuit court here the said John Doe, lessee of the said Daniel Carroll, of Dudington, by his attorney aforesaid; and the marshal to whom the said declaration in ejectment and notice as aforesaid was in form aforesaid made and sent, certifies his service thereof to the court here, in form following, to wit:

Marshal's return.

I hereby certify that I did, on the fourth day of October, eighteen hundred and forty-seven, serve Alfred R. Dowson, the tenant in possession of the premises mentioned in the declaration hereunto annexed, or some part thereof, with a true copy of the declaration and notice thereunder written and hereto annexed.

A. HUNTER,
Marshal.

Whereupon the said John Doe, lessee, by his attorney aforesaid, prays that the said Richard Roe, the defendant, the said Alfred R. Dowson, the tenant in possession of the premises aforesaid, or those under whom he claims to his declaration, may appear.

Def'dts app. Lease, entry, and ouster confessed. Cont'd.

Thereupon Alfred R. Dawson, the tenant in possession, comes here into court, by Walter Jones, esq., his attorney; whereupon it is ruled by the court here, with the consent of the said John Doe, lessee as aforesaid, by his attorney aforesaid, and the said Alfred R. Dowson, (who claims the title in question,) by his attorney aforesaid, that the said Alfred R. Dowson be admitted defendant in the place of Richard Roe, the casual ejector, and at the trial thereon to be had, the said Alfred R. Dowson shall appear in his proper person, or by his attorney, and confess lease, entry, and actual ouster and expulsion of so much of the lands in the declaration of the said John Doe, lessee as aforesaid, as is in the possession of the said Alfred R. Dowson, or by his tenants, or of any other person claiming by or under his title; or in default thereof, that judgment be entered against the now defendant, Richard Roe, the casual ejector, but that prosecution be staid against him until he makes default in any of the premises. And it is further ruled by the court here, with consent of the counsel, that if by reason of such default, the said John Doe, lessee as aforesaid, shall become non-suit at the trial, the said Alfred R. Dowson shall take no advantage thereof,

but shall pay to the said John Doe, lessee as aforesaid, his costs, &c.

And it is further ruled by the court here, that if upon the trial of the said issue a verdict shall be given for the said Alfred R. Dowson, or if the said John Doe, lessee, as aforesaid, shall not prosecute his declaration upon any other cause than for the not confessing lease, entry, and ouster as aforesaid, then the said Daniel Carroll, of Duddington, lessor of the aforesaid John Doe, shall pay costs, &c.

And thereupon the said Alfred R. Dowson, by his attorney aforesaid, defends the force and injury, when, &c., and prays leave of the court to impaile until the fourth Monday of March next, and then to ascertain his defence and answer to the declaration aforesaid of the said John Doe, lessee as aforesaid, in the plea aforesaid, and he has it; and the same day is given to the said John Doe, lessee as aforesaid.

March term, 1848.

At which said fourth Monday of March, in the year of our Lord one thousand eight hundred and forty-eight, to which said day the said Alfred R. Dowson had leave to impaile, and then to ascertain his defence and answer to the declaration of the said John Doe, lessee as aforesaid, in the plea aforesaid, comes again into the circuit court here as well the said John Doe, lessee as aforesaid, by his attorney aforesaid, as the said Alfred R. Dowson, by his attorney aforesaid.

Defence on title, not guilty, and issue joined. Venire.

And the said Alfred R. Dowson, by his attorney aforesaid, as before, defends the force and injury, when, &c., and takes his defence of and upon the premises in question upon his title thereto, and says that he is not guilty of the trespass and ejectment in the said declaration mentioned in manner and form as the said John Doe, lessee as aforesaid, above complains against him; and of this he puts himself upon the county, &c.; and the said John Doe, lessee as aforesaid, in like manner, &c.; therefore let a jury appear before the court here, on the third Monday of October next, by whom, &c., and who neither, &c., to recognize, &c., because as well, &c., and the same day is given to the said parties then and there, &c.

Octo. term, 1848. Appearance and continuance to March term, 1849.

At which said third Monday of October, in the year one thousand eight hundred and forty-eight, comes again unto the said circuit court here as well the said John Doe, lessee as aforesaid, by his attorney aforesaid, as the said Alfred R. Dowson, the tenant

in possession, by his attorney aforesaid. Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties, and their attorneys aforesaid, and by order of the court thereon, is continued until the fourth Monday of March next.

Appearance and continuance to Octo. term, 1849.

At which said fourth Monday of March, in the year eighteen hundred and forty-nine, come again into the said circuit court here as well the said John Doe, lessee as aforesaid, as the said Alfred R. Dowson, defendant as aforesaid, by their respective attorneys aforesaid. Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court thereon, is continued until the third Monday in October next.

At which said third Monday of October, of the year eighteen hundred and forty-nine, come again into the said circuit court here, as well the said John Doe, lessee as aforesaid, by his attorney aforesaid, as the said Alfred R. Dowson, defendant as aforesaid, by his attorney as aforesaid.

Sugg'n of pl'tff lessor's death, and continuance to March term, 1850.

And the said plaintiff, lessee as aforesaid, by his attorney aforesaid, suggests to the court here that since the last continuance of the plea aforesaid, to wit, at the county aforesaid, Daniel Carroll, the plaintiff's lessor, departed this life, and the same is not denied; thereupon day is given by the court here, until the fourth Monday of March next, for the proper parties to appear, according to the act of assembly in such case made and provided, to prosecute of and upon the premises aforesaid; the same day is given to the said defendant, then and there, &c.

App. of heirs of D'l Carroll, and continuance, Octo. term, 1850.

At which said fourth Monday of March, in the year eighteen hundred and fifty, comes again into the circuit court here, as well the said plaintiff, lessee as aforesaid, by his attorney aforesaid, as the said defendant, by his attorney aforesaid; and now here also comes Jane Carroll, Mariah C. Fitzhugh, Ann C. Carroll, Augustus A. Nicholson, and Sarah, his wife, Rebecca Carroll, also Catharine Brent, and Henry M. Brent, by Henry J. Brent, their next friend, the heirs and devisees of Daniel Carroll, of Dudington, deceased, by William Redin, esq'r, their attorney. Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys

aforesaid, and by order of the court here thereon, is continued until the third Monday of October next.

Appearance and continuance to March term, 1851.

At which said third Monday of October, in the year eighteen hundred and fifty, come again into the said circuit court here, as well the said plaintiff's lessee, by his attorney aforesaid, as the said defendant, by his attorney aforesaid. Thereupon further process of and upon the premises aforesaid, between the parties aforesaid, by consent of the said parties and their attorneys aforesaid, and by order of the court here thereon, is continued until the fourth Monday of March next.

Sug'n of defdt. death.

At which said fourth Monday of March, in the year one thousand eight hundred and fifty-one, come again into the circuit court here the said plaintiff's lessee, by his attorney aforesaid, and the said defendant comes not; and hereupon the said plaintiff's lessee, by his attorney, suggests to the court here, that after the last continuance of the plea aforesaid, and before this day, at the county aforesaid, the said Alfred R. Dowson, defendant in the plea aforesaid, departed this life, and this is not denied; thereupon day is given by the court here, until the third Monday in October next, for the proper parties to appear, according to the act of assembly in such case made and provided, to defend in and about the premises aforesaid; the same day is given to the said plaintiff's lessee, then and there, &c.

App. of def'dts heirs. Jury.

At which said third Monday in October next comes again into the circuit court here, the said plaintiff's lessee as aforesaid, by his attorney aforesaid; and now here also comes Nicholas Dorsey, Noah Dorsey, Achsah Dorsey, Tristram S. Dorsey, heirs-at-law of Alfred R. Dowson, deceased, as aforesaid, by Walter Jones, esq'r, their attorney; whereupon, for trying the issued aforesaid, it is ordered by the court here that twenty persons, from the panel of petit jurors returned to the court here by the marshal of the District of Columbia, be drawn by ballot, according to the act of assembly in such case made and provided; and thereupon, the twenty jurors, being so drawn by ballot, and written upon two lists, one of which said lists is delivered to the counsel for the respective parties, and the counsel for each of said parties having stricken out four persons from each of said lists, thereupon the remaining twelve persons being called, come, that is to say: Thomas Oxley, Alexander Jackson, Raymond B. Hall, William Callegan, Vincent Masi, Abraham Butler, Benjamin S. Myers, Joseph B. Tate, Hilleary L. Offutt, Eben Brown, William

Wilson, David Bassett, who, being empannelled and sworn to say the truth in the premises, upon their oaths, do say:

Verdict.

That the said defendant is not guilty of the trespass and ejectment aforesaid, as the aforesaid plaintiff above by his pleading hath alleged.

Judg't.

Therefore it is considered by the court here that the said plaintiff take nothing by his declaration aforesaid, but for his false complaint against the said defendant be in mercy, &c., and that the said defendant go thereof without day, &c. And it is further considered by the court here that the said defendant recover against the said plaintiff the sum of , for his costs and charges by him laid out and expended in and about his defence in this behalf sustained, to the said defendant by the said court now here adjudged, &c., and that the said defendant may have execution thereof, &c.

Test: JNO. A. SMITH,
Cl'k.

Memorandum.

Before the jurors aforesaid withdrew from the bar of the court here, the said plaintiffs and defendants aforesaid, by their attorneys aforesaid, filed in the circuit court here the following bills of exception, to wit:

Plaintiff's 1st exception.

On the trial of this case, upon the issue therein joined, the plaintiff, to support the said issue on his part, gave evidence to show that Daniel Carroll, named in said declaration, was the original proprietor of the premises claimed, by the allotment of the same to him as such proprietor, on the original division between the original proprietors and the public, in the year 1792.

He then further proved, by a competent witness, that prior to the war of 1812, there were buildings erected on the same which were understood and reputed to be the property of said Carroll. That said houses so erected were burned by the enemy, in August, 1814, and the said premises continued in the state of dilapidation thus produced for a period of two other years. That during this period, said Alfred R. Dowson occupied, as tenant of Mr. Law, premises on the south side of Capitol square; but Mr. Law raising the rent, said Dowson left said premises. That said Dowson repeatedly informed witness that some of his friends, naming Dr. F. May, Griffith Coomb, Elias B. Caldwell, &c., had offered to become his

endorsers for the purpose of raising money to enable him to build upon the premises now in controversy; but witness does not remember to have heard Mr. Carroll's name mentioned as one of said friends and endorsers. That said Dowson did go on said premises, erected the buildings upon them, which are now standing, but witness was not acquainted with the particular arrangements among said parties; said Dowson continued to hold and occupy said premises until his death, since the institntion of this suit.

The plaintiff then gave in evidence a certain deed from Griffith Coomb and Frederick May, to Wm. A. Bradley and John H. Riley, (copied at p. 30,) dated 18 Sept'r, 1823, and duly recorded 18 Oct., 1823.

He then gave in evidence the advertisements in the National Intelligencer, of the 7th Octo., 1826, and 9th Nov'r, 1826, (copied at p. 86, 87.)

Plaintiff then offered in evidence two deeds, both from said Alfred R. Dowson, to said Griffith Coomb and Frederick May, the first dated 23 Nov'r, 1826, the second 26th March, 1827, both recorded on the 27th March, 1827, (copied at p. 35, 37.) To the admissibility of said deeds in evidence defendants, by their counsel, objected, and the court sustained the objection and refused to permit the same to be given in evidence to the jury; to which opinion and decision the pl'ff, by his counsel, excepts, and prays the court to seal this bill of exceptions, which is accordingly done, this twentieth day of Nov'r, 1851.

JAS. S. MORSELL. [L. S.]
JAS. DUNLOP. [L. S.]

Pl'ffs 2d bill of exceptions.

In the further progress of this case, the plaintiff, further to maintain the issue upon his part joined, offered Wm. T. Carroll, esq., as a witness, who before his examination on his voire dire, said that he was interested in the event of the suit by having become the endorser upon sundry notes drawn by said Daniel Carroll, of Duddington, and held by the Bank of Washington, upon which judgments had been obtained by said bank against the said drawer and himself, as endorser, which judgments were still outstanding and unsatisfied; and if p'tiff succeeded in this suit, he expected the proceeds would be applied in whole or in part to the satisfaction of said judgments; and it appeared that said notes were all dated on the ninth day of October, 1827, and the judgments thereon obtained in May term, 1829, which are still alive; the counsel for pl'tff proposed to examine said W. T. Carroll, only as to facts occurring and known to him prior to the date of said notes. But the def'dts, by their counsel, objected to the competency of the witness, on the ground that he had now a subsisting interest in the event of the suit; and the court sustained the objection and refused to per-

mit said W. T. Carroll to be examined as witness. To which ruling and decision of the court the plaintiff, by his counsel, excepted, and prayed the court to seal this bill of exceptions, which is accordingly done, this 21st Nov'r, 1851.

JAS. S. MORSELL, [L. S.]
JAS. DUNLOP, [L. S.]

Plt'ffs 3d bill of exception.

And in the further progress of this case, and *and* after the plt'ff had given the evidence set forth in preceding bills of exception, the plt'ff, further to maintain the issues on his part joined, further gave in evidence a deed from Wm. A. Bradley, and John H. Riley, &c., to Daniel Carroll, dated 4th Nov'r, 1846, as the same appears recorded, on the 10th day of the now current month of November, in the land records of Washington county, and in manner and form following, (copied at p. 39.)

And then he gave evidence, tending to show that at the sale made by said Bradley & Riley, as set forth in their aforegoing deed, said trustee, on the 8th and 9th November, 1826, exposed to sale the personal property mentioned in the deeds so as aforesaid made to them as above set forth; that the sale was made in accordance with the advertisement as before set forth; that the sale of the personal property was made at public auction on the premises, and in the house then occupied by said A. R. Dowson, and the sale of the real estate in the street immediately adjacent to and in front of said lots and buildings.

That there were a large number of persons present at said sale, among whom, witness particularly remembered Dr. Frederick May, Daniel Carroll, Griffith Coomb, Wm. A. Bradley, Alfred R. Dawson, and witness. That it was publickly announced that the title to the premises to be sold was a good and perfect title, subject only to an incumbrance or lien of Griffith Coomb, to the amount of a few hundred dollars, subject to which incumbrance said sale was made; no other incumbrance and no adverse title was mentioned. Said witness, Wm. T. Carroll, further testified, that he was then a young man, without means, and attended said sale at the request of and as the agent of his uncle, said Daniel Carroll, and as such agent bid for the said real estate, and it was struck off to him for the sum of nine thousand one hundred dollars. Witness, as drawer, with said D. Carroll as endorser, gave their three several promissory notes for the purchase-money. That no deed was then executed by said trustees. That said notes were subsequently sued upon and prosecuted to judgment, against the drawer and endorser, and said judgments have since been extinguished, and satisfaction entered upon the records. And the said witness further testified, that some months after said sale, he was present at a conversation between said Daniel Carroll and Alfred R. Dowson; that the sub-

ject of the conversation was the leasing by said Dowson from said Carroll of said real estate and premises so purchased at said sale by Bradley & Riley; that said Carroll required that the rent to be paid therefor should be $800 per annum, and said Dowson agreed to pay therefor $600 per annum. That said parties differed only on this point, and separated without coming to an agreement. To the best *of* witness recollected he had within a few days after, conversation with said Dowson on the same subject, and suggested to him that he, the said Dowson and William Carroll, should each modify his proposition, and decide the amount of difference between them, leaving the rent of said premises $700 per annum. To this proposition, said Dowson acceded; and on its being by him, the witness, mentioned to Mr. Carroll, he also concurred. The plt'ff then further gave in evidence the deposition of Henry May, esq'r, with the modification thereof, as endorsed on the same by consent, and the notice to quit, mentioned in said deposition, and upon this evidence the plaintiff rested.

Whereupon the said defendants, to maintain the said issue on their part joined, gave evidence by competent witnesses tending to show that, after the burning of the houses on the premises in controversy, the present buildings were begun in the spring of 1817, and they were completed by the commencement of the next session of Congress. Said houses were built by said Alfred R. Dowson, who occupied the same, either by himself, or his tenants, as a boarding-house, from the time of building until the period of his death, which occurred about a year since this day; that said Dowson paid the taxes on said property from time to time, and on one occasion, when the same had been sold for taxes, redeemed the same. And further, said defendants gave in evidence two certain deeds from said Alfred R. Dowson to Elias B. Caldwell, the one dated May 19, 1817, and recorded Nov'r 4, 1817, and the other dated September 13, 1821, and recorded on the 15th of the same month, as follows: (copied at p. 45 and 51.) And farther gave in evidence a deposition made by said Daniel Carroll, in a certain cause pending in the circuit court of the District of Columbia, wherein Wm. T. Carroll was plt'ff, and the Bank of Washington was defendant, in the words and figures following, viz: (copied at p. 55.)

"And further gave in evidence certain assessments from the books of the corporation of Washington, certain advertisements of sale for taxes, the proof of sale, payment of purchase-money. It being agreed that copies of the same, as here inserted, shall be substituted for and received as the originals," (one advertisement only with the dates of the others—copied at p. 88.)

And thereupon offered to give in evidence a certain deed from the corporation of Washington to John France, (copied at p. 82,) to the admissibility of which said deed to said France the plt'ff, by his counsel, objected; but the court overruled the objection, and permitted the same to be given in evidence to the jury, to which the

plaintiff, by his counsel excepted, and prayed the court to seal this bill of exceptions, which is accordingly done, this 22d of November, 1851.

JAS. S. MORSELL, [L. S.]
JAS. DUNLOP, [L. S.]

Defendant's bill of exception.

JOHN DOE, lessee of D. Carroll, of Dudington,
vs.
A. R. DOWSON'S heirs.

Mem. Upon the production of the said supposed deed from W. A. Bradley and J. H. Riley, trustees, &c., and W. Gunton, president, &c., to said Daniel Carroll, as set forth in plt'ffs 1st bill of exceptions, it appearing from the proceedings in this cause that the said Daniel Carroll had departed this life pending this suit, and before the recording of the said deed, that his death had been suggested of record in the proceedings of this suit, at the Ootober term, 1849, of this court, and that the now plt'ffs, his heir-at-law, had appeared as such plt'ffs, at the October term, 1850, of this court; the defendants objected to the admission of the said deed in evidence, but the court overruled the objections of def'ts to the same, and permitted the pl'ffs to read the same in evidence to the jury, to which the defendants except, and pray that this their bill of exceptions be sealed, &c.; and it is done accordingly, this 22d day of Nov., 1851.

JAS. S. MORSELL, [L. S.]
JAS. DUNLOP, [L. S.]

GRIFFITH COOMBE and Frederick May, to WILLIAM A. BRADLEY, and John H. Reily. } Trust, recorded Octo. 18th, 1823.

This indenture, made this 18th day of September, in the year of our Lord one thousand eight hundred and twenty-three, between Griffith Coombe and Frederick May, of the city of Washington, in the District of Columbia, of the first part, and William A. Bradley and John H. Riley, of the same place, of the second part.

Whereas, there are sundry notes now due, drawn by one Alfred R. Dowson, of Washington city aforesaid, endorsed by the said Griffith Coombe and Frederick May, Daniel Carroll, of Dud'n, J. D. Barry, W. Brent, and E. B. Caldwell, and discounted at the Bank of Washington, the Bank of Metropolis, the Patriotic Bank

of Washington, and the Bank of the United States, at their office of discount and deposit, in the city of Washington, which said notes are now due by the endorsers aforesaid; and the said Griffith Coombe and Frederick May, wishing to secure the payment of the said notes, and to save harmless the banks aforesaid in which they were discounted:

Now this indenture witnesseth, that the said Griffith Coombe and Frederick May, for and in consideration of the premises, and for the further consideration of one dollar to them in hand paid at and before the sealing and delivery of these presents, by the said William A. Bradley and John H. Riley, the receipt whereof is hereby acknowledged, have given, granted, bargained, sold, aliened, enfeoffed, confirmed, and assigned, and by these presents do give, grant, bargain, sell, alien, enfeoff, confirm, and assign unto the said William A. Bradley and John H. Reily, and the survivor of them, and to the heirs, executors, and administrators of the survivors of them, all those lots, pieces, or parcels of land, situate, lying, and being in the city of Washington aforesaid, to wit:

Lot numbered nine, and part of lots numbered ten, eleven, and twelve, in square numbered six hundred and eighty-seven in the *place* of said city, beginning twenty-six feet from the southwest corner of said square, on the north side of north A street, and running thence east seventy-eight feet on said north A street, to the east line of said lots numbered nine; thence north with the east line of said lots numbered nine, ten, eleven, and twelve, one hundred and sixty-four feet and three inches; thence west seventy-eight feet; thence south one hundred and sixty-four feet three inches to the beginning; and also all the right, title, and interest of the said Griffith Coombe and Frederick May of, in, and to the following negroes, plate, household, and kitchen furniture, whether particularly described or not, to wit: Twenty-eight feather beds, bolsters, and pillows, three turkey feather beds, three straw do., one mattrass, twenty-seven bedsteads and curtains, thirty carpets, sixteen counterpanes, twenty-two quilts, forty pair sheets, twenty-one pair pillow cases, three low-post bedsteads, one crib and bed and pillow, one easy chair and pan, one warming-pan, two reflectors, three cots, two large gilt framed looking-glasses, four dressing-glasses, eighteen small looking-glasses, twenty-three Windsor chairs, two dozen rush-bottomed do., two settees rush-bottoms, eight-dozen and four common chairs, two sets dining tables, one set tables, four pieces, four pair card-tables, two sideboards, thirty chamber tables, one secretary, six dining-room curtains and cornices, four do., parlor, with cornices, thirty-seven window curtains, fourteen bureaus, twenty-nine wash-stands, twenty-eight basins, twenty-six pitchers, twenty-six chambers, thirty-two brushes, one sofa, thirty-one wire fenders, thirty-two shovel and tongs, twenty-eight pair dogs, two grates, three pair andirons, brass stair and passage carpet rods, two sets Liverpool china, tea china, and glass, two sets waiters,

four dozen large knives and forks, four doz. ditto dessert, four dozen diaper towels, twenty pair snuffers, twenty shaving cups, two four-branch passage lamps, seventeen brass candlesticks, one plated ditto, and kitchen furniture, seventeen table spoons, twenty-one dessert ditto, sixty-two oz., two soop-ladle, fourteen oz., twenty-four tea-spoons, two salts, one cream, twenty-eight oz., two butter boats and coffee-pot, fifty-five oz., two sugar tongs, 3 oz., two pair plated candlesticks, two do. tea-pots, two do. creams, two do. castors, two sugar dishes; negroes Jenny and her daughter Eliza, George and Maria, John Dyne and her daughter and son, Nancy and her one small child, Alexander and Henry, to have and to hold all the right, title, and interest of the said Griffith Coombe and Frederick May, whether in law or equity, of, in, and to the above described lots, pieces, or parcels of land, together with the appurtenances thereunto belonging, or in anywise appertaining, and also all the said negroes, plate, furniture, and other personal property, whether particularly described or not, to the said William A. Bradley and John H. Reily, and the survivor of them, and the heirs, executors, and administrators of the survivor of them.

In trust, nevertheless, and to and for the following uses, intents, and purposes, to wit, in trust to secure, idemnify, and save harmless the said banks in which the notes aforesaid were discounted from all loss and damage whatsoever for and on account of their having discounted the said notes so endorsed as aforesaid, or for the renewal thereof, in whole or in part, whether the notes given for renewal shall be endorsed in like manner or otherwise. And in further trust that if the said notes shall not be paid by the drawer or endorser therein aforesaid, when required by the president and directors, through their proper officer of the banks at which they were discounted, within thirty days after such demand of payment and protests thereon, then and in that case the said William A. Bradley and John H. Riley, or the survivor of them, and the heirs, executors, and administrators of the survivors of them, are hereby authorized and required, upon the request of a majority in interest of the said banks aforesaid, to sell and dispose of the said real and personal property herein mentioned for cash, or on credit, as to them, the said William A. Bradley and John H. Riley, trustees, or the survivor of them, or the heirs, executors, and administrators of the survivor of them, shall appear best and most proper, at public sale, after giving thirty days' notice in one of the newspapers of the city of Washington, of the time and place of sale, and the proceeds of said sale be applied to the payment of said notes, after all reasonable expenses of said sale have been paid, and the balance, if any there be, to the said Griffith Coombe and Frederick May; and the said William A. Bradley and John H. Riley, or the survivors of them, their heirs, executors, and administrators, or the survivors of them, are hereby empowered to give good and sufficient legal conveyances

of the property, both real and personal, in this deed of trust mentioned, whether particularly described now or not, so to be sold.

In testimony whereof, we have hereunto set our hands and affixed our seals this 18th day of September, in the year aforesaid.

GRIFFITH COOMBE, [SEAL.]
FRED'K MAY, [SEAL.]

Signed, sealed, and delivered in presence of—
B. THURSTON.

DISTRICT OF COLUMBIA,
Washington county, sc:

On this eighteenth day of September, in the year of our Lord one thousand eight hundred and twenty-three, before me, the subscriber, an ass't judge of the circuit court for the said district, personally appeared Griffith Coombe and Frederick May, the grantors within named, and acknowledged the foregoing deed or instrument of writing to be their act and deed, respectively, and that they executed the same for the purposes therein mentioned.

Before me,

B. THURSTON.

Bill of sale, recorded 27th March, 1827.

ALFRED R. DOWSON to GRIFFITH COOMBE & Frederick May.

Know all men by these presents, that whereas, on the eighth of current month, William A. Bradley and John H. Reiley, in virtue and by authority of a deed of trust to them from Griffith Coombe and Frederick May, dated the 1st day of September, 1823, duly acknowledged and recorded among the land records of Washington, in Lib. W. B., No. 10, fol's 220, 221, 222, 223, 224, and 225, (to which reference is made as part and parcel of these presents,) did set up at auction all the negroes, plate, and household and kitchen furniture in the said deed mentioned and described, and thereby intended to be conveyed to the said Bradley and Riley, in trust, and comprising all and every of the articles of property of that kind and description then and now in or about the boarding-house or houses and premises occupied by Alfred R. Dowson, and in his possession, all and every of which were bought in at the sale by the said Griffith Coombe and Frederick May, with an understanding that said Dowson should have the benefit of redemption of said property any time before it should become necessary to sell the same to raise money to pay off the debt or debts in the said deed mentioned, and thereby intended to be secured, or as long as the

bank to whom such debt or debts were respectively due and owing were willing to wait for the same, and the security of said Coombe & May would allow; and the meantime to allow said Dowson the possession and use of the said property, until it should be necessary to call for the same for the payment of the said debt or debts, or for the security of the said Coombe & May:

Now, be it known by the presents, that I, the said Alfred R. Dowson, have bargained and sold, and by these presents do bargain, sell, and confirm to the said Coombe & May, and their assigns forever, all the said property, to have and to hold the same to them and their assigns forever—hereby acknowledging that my intermediate possession of the same is entirely subject to the right and title of the said Coombe & May to take the same and dispose of the same, when necessary, for the payment of the said debt or debts, and hereby covenanting and agreeing with them to surrender and deliver to them the said property whenever they shall demand the same, and it shall be necessary for the payment of the said debt or debts or for their security.

Witness my hand and seal, this 23 Nov'r, 1826.

ALFRED R. DOWSON, [L. S.]

Sealed and delivered in presence of—
WILLIAM EMACK.

WASHINGTON, *to wit:*

The within named A. R. Dowson this day appeared before me, the subscriber, a justice of the said county, and acknowledged the said foregoing deed or bill of sale to be his act and deed.

Given under my hand and seal, this 24th Nov'r, 1826.

WILLIAM EMACK, [L. S.]

Know all men by these presents, that whereas the annexed instrument of writing or deed pole, was duly executed and acknowledged by me for the considerations, purposes, and intents therein specified, and no other, and with intent to be recorded in manner and form as the same now appears; but whereas the time for receiving the same has elapsed—

Now I, the same Alfred R. Dowson, in the said annexed instrument of writing or deed poll named, for the same considerations, intents, and purposes therein mentioned, and for and in consideration of the further sum of one dollar to me in hand paid by the same Griffith Coombe and Frederick May therein named, and by way of confirmation and further assurance of the matter of the same, have bargained, sold, and confirmed, and by these presents do bargain, sell, and confirm unto them and their assigns forever, all the property of what kind or nature soever in the said instrument of writing mentioned and described, to have and to hold the same

to them and their assigns forever; and hereby again acknowledging the nature, intent, and object of my intermediate possession of the same to be as in the said instrument of writing are mentioned and set forth—the said instrument of writing being hereto annexed, and to be taken and referred to as part and parcel of these presents.

Witness my hand and seal, this twenty-sixth day of March, eighteen hundred and twenty-seven.

ALFRED R. DOWSON, [SEAL.]

Sealed and delivered in presence of—
WILLIAM EMACK.

WASHINGTON COUNTY, *to wit:*

The above-named Alfred R. Dowson this day acknowledged the foregoing instrument of writing as his act and deed, before me, the subscriber, a justice of the said county, this 26th. day of March, 1827.

WILLIAM EMACK.

Deed, recorded 10 Nov'r, 1851.

BRADLEY and REILY, to D'L CARROLL, of Dudington.

This indenture, made this fourth day of November, in the year eighteen hundred and forty-six, by and between William A. Bradley and John H. Riley, of Washington city, in the District of Columbia, of the first part, William Gunton, President of the trustees of the Bank of Washington, of the second part, and Daniel Carroll, of Duddington, of the same place, of the third part: Whereas the said parties of the first part did, in virtue of a deed of trust from Griffith Coombe and Frederick May, dated on the eighteenth day of September, in the year eighteen hundred and twenty-three, and duly recorded in liber W. B., No. 10, folios 220 to 225, one of the land records for Washington county, in the District of Columbia, expose to public sale all the property in said deed mentioned and described; and the said Daniel Carroll, of Duddington, being the highest bidder, became the purchaser thereof, at and for the sum of nine thousand one hundred dollars, on a credit of one, two, and three years, for which amount certain notes were duly executed, and the said notes having been assigned to the Bank of Washington, by the said Griffith Coombe and Frederick May, to secure a debt due to the said bank, and the said notes and the judgments rendered thereon against the said Daniel Carroll, of Dudington, having been fully discharged and satisfied, and the said

parties of the first part having been directed, authorized, and empowered to convey the real estate so as aforesaid sold by them unto the said Daniel Carroll, of Duddington, (as is fully testified by the said William Gunton, being a party to and executing these presents,) by these presents:

Now, This indenture witnesseth that the said parties of the first part, for and in consideration of the premises and the sum of five dollars to them in hand paid by the said Daniel Carroll, of Duddington, at and before the sealing and delivery hereof, the receipt whereof is hereby acknowledged, have, by and with the consent, authority, and direction of the trustees of the Bank of Washington, as is fully testified by the said William Gunton, their president, being a party to and executing these presents, bargained, sold, aliened, released, assigned, transferred, and conveyed, and by these presents do bargain, sell, alien, release, assign, transfer, and convey unto the said Daniel Carroll, of Duddington, his heirs and assigns forever, all the estate, right, title, and interest of them, the aforesaid parties of the first part, in and to all these several lots, parcels, or pieces of ground situated in Washington city, and consisting of lot numbered nine (9,) and part of lots numbered ten, (10,) eleven, (11,) and twelve, (12,) in square numbered six hundred and eighty-seven, (687,) and bounded as follows:

Beginning twenty-six feet from the southwest corner of said square, on the north side of north A street, and running thence east seventy-eight (78) feet on said north A street to the east line of lot numbered nine, (9;) thence north, with the east line of said lots nine, (9,) ten, (10,) eleven, (11,) and twelve, (12,) one hundred and sixty-four (164 ft.) three (3) inches; thence west seventy-eight (78) feet; thence south one hundred and sixty-four (164) feet three (3) inches to the beginning, with all and singular the buildings, improvements, hereditaments, and other premises, with the appurtenances thereunto belonging, to have and to hold all the estate, right, title, and interest of them, the said parties of the first part, both at law and in equity, in and to the above-described lots, parts of lots, and pieces of land, with all and singular the buildings, improvements, hereditaments, and other premises, with the appurtenances thereunto belonging, unto the said Daniel Carroll, of Duddington, his heirs and assigns, forever, and to and for his and their sole use and behoof.

In witness whereof, the said William A. Bradley and John H. Riley, and the said William Gunton, president of the trustees of the Bank of Washington, have, on the day and year first above written, severally set their hands and seals to these presents.

W. A. BRADLEY, [SEAL.]
JNO. H. RILEY, [SEAL.]
W. GUNTON, *Pres't.* [SEAL.]

Signed, sealed, and delivered in presence of—
B. K. MORSELL,
T. C. DONN.

DISTRICT OF COLUMBIA,
Washington county, to wit:

We, Benjamin K. Morsell and Thomas C. Donn, justices of the peace in and for the county of Washington, in the District of Columbia, do hereby certify that William A. Bradley and John H. Riley, parties to a certain deed bearing date on the fourth day of November, in the year eighteen hundred and forty-six, and hereto annexed, personally appeared before us, in our county aforesaid, they being well known to us as the persons who executed the said deed, and severally acknowledged the same to be their act and deed.

Given under our hands and seals, this 4th day of November, in year 1846.

B. K. MORSELL, *J. P.*, [L. S.]
T. C. DONN, *J. P.*, [L. S.]

The above deed was recorded 10th Nov'r, 1851, in Liber J. A. S., No. 31, folios 5, 6, and 7, one of the land records for Washington county, District of Columbia.

Deposition of Henry May, esq.

MARYLAND,
Baltimore city, to wit:

Be it remembered, that on this thirteenth day of November, in the year 1851, before the subscriber, a justice of the peace in and for the city of Baltimore aforesaid, personally appears Henry May, of said city, who makes oath on the Holy Evangely of Almighty God, that he was counsel for the late Daniel Carroll, of Duddington, of Washington city, deceased, and as such counsel was employed to institute an action of ejectment in the circuit court of the United States of the District of Columbia, for the county of Washington, against the late Alfred R. Dowson, to recover to certain lots and brick houses situate thereon on Capitol Hill, and on the square of the Capitol ground, and next adjoining thereto, and which the said Dowson then and for a long time before had resided in said city of Washington.

That a short time previous to bringing said suit, which is now pending in said court, this affiant prepared a written notice, addressed to said Dowson, which was signed by said Daniel Carroll, requiring said Dowson to yield up and quit his tenancy of the said premises, to wit, the said houses and the lots whereon they are situated. That the said notice was in the usual form of such notices from a landlord to his tenant. That this affiant personally called upon said Dowson at his residence in one of said houses, and delivered to him said notice, which he carefully read, and replied that he was

not Mr. Carroll's tenant, (meaning said Dan'l Carroll.) This affiant then enquired if he disclaimed being Mr. Daniel Carroll's tenant, and he replied that he did, and claimed the said premises as his own, (meaning that he claimed the said houses and lots described in the said notice.)

That shortly after the interview and conversation, this affiant instituted the said ejectment suit for the said premises in the said court where the same is now pending as aforesaid.

That a true copy of the said notice was returned by this affiant, and by him delivered into the hands of the counsel who succeeded him in representing the plaintiff in said case.

Sworn to before—

EDW'D G. STARR, *J. P.*, [SEAL.]

STATE OF MARYLAND,
Baltimore county, set:

I hereby certify that Edward G. Starr, esquire, before whom the annexed affidavit was made, and who has thereto subscribed his name, was at the time of so doing a justice of the peace of the State of Maryland, in and for the city of Baltimore, duly commissioned and sworn.

In testimony whereof, I hereto set my hand and affix the seal of Baltimore county court, this 13th day of November, A. D. 185 .

[SEAL.]

A. W. BRADFORD,
Clerk Baltimore county court.

Agreement of counsel, attached to the foregoing affidavit.

Agreed that the notice and demand of possession by Henry May was on the 4th Aug't, 1847, and that this may be inserted as part of his deposition.

W. REDIN,
JOS. H. BRADLEY.

Notice to tenant.

TO ALFRED R. DOWSON.

SIR: As I am desirous to have again and repossess the premises, being lots numbered nine, (9,) and part of lots numbered ten, (10,) eleven, (11,) and twelve, (12,) in square numbered six hundred and eighty-seven, (687,) according to the plan of the city of Washington, with the buildings and improvements thereon, which you now hold of me as tenant, I hereby give you notice to remove from and quit the same at the end of the current year of your tenancy.

Your obedient serv't,
(Signed) DANIEL CARROLL, of Dud'n.

Trust, recorded 4th Nov'r, 1817.

ALFRED R. DOWSON,
to
ELIAS B. CALDWELL.

This indenture, made this 19th day of May, in the year of our Lord one thousand eight hundred and seventeen, between Alfred R. Dowson, of the city of Washington, in the District of Columbia, of the first part, Elias B. Caldwell, of the same place, of the second part, and Daniel Carroll, of Duddington, Griffith Coombes, Frederick May, William Brent, James D. Barry, Elias B. Caldwell, all of the city of Washihgton, in the District of Columbia, of the third part: whereas, the said Elias B. Caldwell, Daniel Carroll, of Duddington, Griffith Coombe, Frederick May, William Brent, James D. Barry, are about to become endorsers for the said Alfred R. Dowson, to enable him to borrow on a note or notes to be discounted in one or more banks in the city of Washington, the sum of twelve thousand dollars; and whereas, the said Alfred R. Dowson is desirous of indemnifying and saving harmless the said Elias B. Caldwell, Daniel Carroll, of Duddington, Griffith Coombe, Frederick May, William Brent, James D. Berry, for or on account of their so becoming endorsers as aforesaid, of and from all losses, charges, or costs whatsoever accuring by reason of their said endorsements as aforesaid:

Now this indenture witnesseth, that the said Alfred R. Dowson, for and in consideration of the premises, and also for and in consideration of the sum of one dollar to him in hand paid by the said Elias B. Caldwell, at or before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, hath granted, bargained, sold, aliened, enfeoffed, and confirmed, and by these presents doth grant, bargain, sell, alien, enfeoff, and confirm unto the said Elias B. Caldwell, his heirs, executors, administrators, and assigns, all those lots, or parts of lots, peices, or parcels of ground, situated, lying, and being in the city of Washington, in the District of Columbia, and known and distinguished on the plan of the said city as lot numbered nine in square numbered six hundred and eighty-seven, and part of lots numbered ten, eleven, and twelve, in said square numbered six hundred and eighty-seven, and bounded and described as follows, that is to say: Beginning twenty-six feet from the southwest corner of said square, on the north side of north A street, and running thence east seventy-eight feet on said north A street to the east line of said lot numbered nine; then north, with the east line of said lots numbered nine, ten, and eleven, and twelve, one hundred and sixty-four feet three inches; thence west seventy-eight feet; thence south one hundred and sixty-four feet three inches to the beginning. Also the following household and kitchen furniture, and other property, to wit: Twenty-two feather

beds, bolsters, and pillows, of the value of six hundred ninety-one dollars and fifty cents; twenty-two bedsteads and curtains, value of five hundred and fifty dollars; twenty carpets, value of five hundred dollars; thirty counterpanes, value of three hundred and fifty dollars; forty pair of sheets, value of three hundred dollars; two large looking-glasses, valued sixty dollars; four dressing-glasses, value forty dollars; twenty-two chamber glasses, value seventy dollars; eight dozen chairs, value one hundred and twenty dollars; two dozen parlor chairs and settee, one hundred and thirty dollars; two sets dining tables, value one hundred and ten dollars; four pair card tables, value ninety dollars; two sideboards, value one hundred and thirty dollars; thirty chamber tables, different sizes, value seventy dollars; four dining-room curtains and cornishes, value sixty dollars; four parlor curtains and cornishes, value sixty dollars; twenty window curtains, value one hundred and twenty dollars; fourteen bureaus, value two hundred and seventy-five dollars; twenty-four wash-stands, forty dollars; two sets Liverpool china, large sets, value one hundred and sixty dollars; one set Liverpool china, large sets, value one hundred dollars; eighty pair blankets, rose pattern, six hundred dollars; kitchen furniture, value twenty-five dollars—amounting in the whole to four thousand six hundred and fifty-one dollars and fifty-cents, as valued by the said Alfred R. Dowson, together with and singular the buildings, improvements, priviliges, and appurtenances to the said lots and parts of lots belonging, or in anywise appertaining, and all the right, title, and interest of the said Alfred R. Dowson whatever, in law or equity, of, in, or to the same, or any part thereof, to have and to hold the said lots and parts of lots, pieces, or parcels of ground above described and conveyed, and intended so to be, with their, and any of their privileges and appurtenances, and the said household and kitchen furniture, and other personal property, to the said Elias B. Caldwell, his heirs, executors, administrators, and assigns, to the only proper use and behoof of the said Elias B. Caldwell, his heirs, executors, administrators, and assigns forever.

In trust, nevertheless, to and for the following uses, intents, and purposes, to wit: In trust to secure, idemnify, and save harmless the said parties of the third part, their heirs, executors, and administrators, of and from all loss and damage whatsoever, for or on account of their becoming endorsers aforesaid; and in further trust, that if the said note or notes on which they or the survivor or survivors of them shall become endorser on the renewals of said note or notes, or any of them, or any part thereof, shall not be paid when required by the president and directors of the bank or banks where the same shall be discounted, within sixty days after such demand of payment by said bank or banks, and protests thereon, then, and in that case, the said Elias B. Caldwell, his heirs, executors, administrators, or assigns, is hereby authorized and required, upon the request of a majority of said endorsers, or their executors

or administrators, to sell and dispose of said lots and parts of lots of ground, and personal property, for cash, or upon credit, as the said endorsers, or a majority of them as aforesaid, shall direct, at public sale, first giving thirty days' public notice of the time, place, and terms of sale, in some public newspaper in the city of Washington; and the proceeds of said sale, after payment of all reasonable expenses, to apply the first place to the payment of said note or notes so endorsed as aforesaid, or the renewals thereof, and the balance, if any, to the said Alfred R. Dowson, his executors, administrators, or assigns; and it is hereby expressly agreed and understood that the said Elias B. Caldwell, his heirs, executors, administrators, shall have full power and authority to give a good and sufficient deed of conveyance of said lots, or parts of lots, to the purchaser or purchasers thereof, and of assignment and delivery of said personal property, which shall be sold under the authority of this deed.

In witness whereof, the said Alfred R. Dowson hath hereunto set his hand, and affixed his seal, the day and year above mentioned.

ALFRED R. DOWSON, [L. S.]

Signed, sealed, and delivered in the presence of—
SAM'L SMALLWOOD,
DAN'L RAPINE.

DISTRICT OF COLUMBIA,
Washington county, sct:

On this 19th day of May, in the year of our Lord eighteen hundred and seventeen, personally appear Alfred R. Dowson before us, the subscribers, two justices of the peace for Washington county, and acknowledges the within deed or instrument of writing to be his act and deed, and that he executed the same for the use, intents, and purposes therein contained.

Acknowledged before—

SAMUEL N. SMALLWOOD,
PAUL RAPINE.

Trust, recorded 15th Sept'r, 1821.

ALFRED R. DOWSON
to
ELIAS B. CALDWELL
and others.

This indenture, made this thirteenth day of Sept'r, in the year of our Lord one thousand eight and twenty-one, between Alfred R. Dowson, of the city of Washington, in the *the* District of Columbia, of the first part, Elias B. Caldwell, of the same place, of the second

part, and Dan'l Carroll, of Duddington, Griffith Coombe, Frederick May, William Brent, James D. Barry, and Elias B. Caldwell, of the third part, witnesseth: whereas, by deed of trust dated on or about the nineteenth day of May, one thousand eight hundred and seventeen, the said Alfred R. Dowson conveyed certain real and personal property to the said Elias B. Caldwell to idemnify, and save harmless the said parties of the third part, for and on account of their becoming endorsers for the said Alfred R. Dowson; and whereas, the said endorsements amounted to more than the sum mentioned in the said deed of trust; and whereas, it was and is the intention of the said Alfred R. Dowson to idemnify and save harmless the said parties of the third part, of and from all loss and damage for all and any endorsements by them, or any of them, made for the said Alfred R. Dowson by further security of property, and to cure any defect in said deed of trust, if any exists, for their more full and perfect security:

Now, this indenture witnesseth, that the said Alfred R. Dowson, for and in consideration of the premises, and for the further consideration of five dollars, to him in hand paid by the said Elias B. Caldwell, the receipt whereof is hereby acknowedged, hath given, granted, bargained, sold, transferred, and assigned, and by these presents doth grant, bargain, sell, transfer, and assign, all the property to the said Elias B. Caldwell, his heirs, executors, administrators, and assigns forever, in the said deed of trust mentioned, and all the following goods and chattels, negroes, plate, household and kitchen furniture, (part of which is particularly described in said deed of trust,) to wit: Twenty-two feather beds, bolsters, and pillows, twenty-two bedsteads and curtains, twenty carpets, thirty counterpanes, forty pair sheets, two large looking-glasses, eight dozen chairs, two dozen parlor chairs and settee, two sets dining tables, four pair card-tables, two sideboards, thirty chamber tables, six dining-room curtains and cornices, four parlor do. and cornices, twenty window curtains, fourteen bureaus, twenty-four wash-stands, two sets Liverpool china, tea china, and glass, eighty-four pairs blankets, and kitchen furniture; negroes Amy, Harry, Alexander, Maria, Nancy, Eliza, George, John, Jenny, and James, to have and to hold said real estate and negroes, plate, household and kitchen furniture, and other personal property, whether particularly described or not, to the said Elias B. Caldwell, his heirs, executors, administrators, and assigns, to the proper use and behoof of the said Elias B. Caldwell, his heirs, executors, administrators, and assigns. In trust, nevertheless, to and for the following uses, intents, and purposes, to wit: in trust to secure, idemnify, and save harmless the said parties of the third part, their heirs, executors, administrators, and assigns, from all loss and damage whatsoever for and on account of their becoming endorsers aforesaid. And in further trust, that if any of the notes, on which they or the survivor or survivors of them, shall become endorsers

on the renewals of said note or notes, or any of them, or any part thereof, shall not be paid when required by the president and directors of the bank or banks where the same shall be discounted, within sixty days after such demand of payment by said bank or banks, and protests thereon, then, and in that case, the said Elias B. Caldwell, his heirs, executors, administrators, and assigns, are hereby authorized and required, upon the request of a majority of the said endorsers, or their executors, or administrators, to sell and dispose of the said real and personal property herein mentioned, and which is particularly described in the deed of trust before alluded to, for cash, or upon credit, as the said endorsers, or a majority of them, shall direct, at public sale, first giving thirty days' notice of the time and place of sale, by publication in one of the newspapers of the city of Washington; and the proceeds of such sale, after payment of all reasonable expenses, to apply to the payment of the said notes on which the parties of the third part aforesaid, or any of them, shall have been endorsers, and the surplus, if any, shall remain, after payment of said notes, to pay over to the aforesaid Alfred R. Dowson; and the said Elias B. Caldwell is hereby empowered to give a good and legal conveyance of the said property, real and personal, so to be sold.

In testimony whereof, the said Alfred R. Dowson hath hereunto set his hand and affixed his seal, the day and year before written.

ALFRED R. DOWSON. [SEAL.]

Sealed and delivered in presence of—
J. H. RILEY,
W. A. BRADLEY.

DISTRICT OF COLUMBIA,
Washington county, to wit:

On this 13th day of September, in the year eighteen hundred and twenty-one, personally appeared before me, the subscriber, the above-named Alfred R. Dowson, and acknowledged the aforegoing instrument to be his free act and deed, for the purposes therein mentioned.

B. THURSTON,
Ass't Judge of the Cir. C't D. of Col'a.

Depo. of D'l Carroll.

WILLIAM T. CARROLL, complainant,
against
THE PRESIDENT, DIRECTORS, and Company of the Bank of Washington.

A suit depending in the circuit court of the United States for District of Columbia and county of Washington.

The deposition of Daniel Carroll, of Duddington, of lawful age,

of Washington city, a witness produced on the part of William T. Carroll, in an action depending in the eircuit court of the District of Columbia for the eounty of Washington, in which William T. Carroll is complainant and the president, directors, and company, of the Bank of Washington, are defendants.

I, Daniel Carroll, of Duddington, do depose and say, that in or about the year eighteen hundred and nine, this deponent was a resident in the city of Washington; and among other objects to promote the general wellfare and increase the prosperity of said city, then in its infancy, and in which deponent was one of the largest proprietors, deponent took an active and principal part in obtaining from Congress the charter of the Bank of Washington; was one of the largest subscribers to the stock of said bank; and built, at an expense of about 13,000 dollars, a house for the use and accommodation of said institution, under a distinct and precise understanding that the bank would occupy the same as their banking house during the continuence of the charter, at a rent of ten per cent. upon the original cost of said building. This contract was faithfully performed for the period of about two years by said bank, when they abandoned the same, violated the agreement, and threw the house so constructed for their use upon deponent's hands. Deponent was also for several years after the origin of said bank, the president of the institution.

I, Daniel Carroll, of Duddington, do further depose and say, that in the year 1821, I was indebted to the president, directors, and company of the Bank of Washington, on 3 promissory notes, of which I was the drawer, one being for $26,000, endorsed by George Calvert, one for $2,000, endorsed by Griffith Coombe, and one for $15,760, endorsed by Charles Carroll, of Bellevue; and that, to secure the payment of the said debt, and to idemnify the endorsers on said notes, I executed and delivered to the said bank a deed of mortgage of a large and valuable real estate in this city, on the 22d day of October, 1821.

That under a deed of trust made by Griffith Coombe and Frederic May to Wm. A. Bradley, then cashier, and John H. Reiley, then an officer of said Bank of Washington, and acting therein as the agents of said bank, given to secure a debt due to said bank, the said Bradley and Riley, as such trustees, offered at public sale certain real estate and houses on Capitol Hill, in this city, called the Dowson houses, on or about the 9th of November, 1826; that I was present at said sale; and that at said sale, the said Bradley and Reilly, acting as the agents of said bank, and as such trustees, stated and represented that the title of the property which they were about to sell was a perfect and valid legal title in fee-simple, and that the same was unencumbered excepting by a small claim of Griffith Coombe for a few hundred dollars; that William F. Carroll was present at said sale with me as my agent and representative, and as such agent and representative, did for me, and on

my account, purchase the said property for and at the sum of $9,100; that said bank, its officers, and said trustees, knew perfectly well at the time that said William acted exclusively in the matter as my agent, and for me, and that I was the purchaser; but that, as I was then largely indebted to said bank as drawer of several notes, and in order to comply with the terms of sale as advertised, the said bank and its officers proposed that the said William should be the nominal drawer of the notes for the purchase money, and that I should endorse the same; and the bank would retain the title to the property as security for the purchase money; and that it would not look to the said William for the payment thereof; and that it was so understood and agreed upon between the said bank, its president and officers, and myself; and that, accordingly, and in pursuance of said agreement, the said William did, on or about the said 9th of November, 1826, execute, as drawer, three promissory notes, for $3,033⅓ each, payable in one, two, and three years, with interest, and which I endorsed; that at the time the said William was a very young man, without any means or fortune of his own, or prospect of acquiring any, save by his own industry; that his responsibility was merely nominal; that he had not the slightest interest in the purchase; that he acted solely as my agent; and that the said bank, its officers, and trustees, knew these facts; that said William became a party to said notes at the request of said bank and said trustees solely for its and their accommodation, and in virtue of said agreement between said bank and myself that it would not look to him for any part of the purchase-money, but that it would retain the title of the property as security therefor, and which the bank represented as most abundant security, and which it was considered by all the parties at the time that said William was not, in any form or shape, interested in the said purchase, or to receive any compensation therefor, but acted simply as my agent, upon the representations above made by the said bank and its officers; that the said bank and said trustees at the time regarded and recognized him, both as purchaser and signer of said notes, in the character and capacity of my agent; that the said bank have always considered and treated the same as a debt due by me as principal, and that I have since given to the said bank, at its request, additional security for the same; that neither the said trustees nor said bank have ever made, tendered, or delivered to me any deed or conveyance for or possession of the said property, nor have I ever received the possession thereof, or any rents therefrom, or in any form or shape, any equivalent or consideration for said three notes, nor do I know or believe that the said William has. That the said premises and property remain in the same situation and possession and in every way the same as when originally purchased by me. That the bank instituted suits in the circuit court for this district on said three notes against me, and against the said William; that I employed counsel to attend to said suits, and took upon myself

in all respects the management, control, and expenses of all said suits, and that judgments were obtained by said bank in said suits in 1829 and 1830. That I have since given to said bank at its request other securities for said judgments. That the said bank have always considered and treated me as the principal debtor, and have always thus stated to me, and that they did not consider or regard the said William as debtor. That in June, 1827, I continued to be indebted to said Bank of Washington (being the first indebtment herein stated by me) on several promissory notes, of which I was the drawer, and George Calvert, a man of very large and undoubted wealth, was the endorser, (I being at the time endorser for said Calvert in said bank for a large amount;) that upon the maturity of said paper, said Calvert declining to renew his endorsement thereof, it was expressly understood and agreed between the said bank, its president and officers, and myself, (I, having amply secured the whole debt by a mortgage of real estate in this city sufficient in the estimation of both parties,) that the said bank would renew said paper upon my procuring a nominal endorser thereof, so as to comply with the general usage of the bank, and agreed to receive said William T. Carroll as such nominal endorser, but who was not be looked to for the payment of any part thereof; and that, in pursuance of such stipulation and agreement by the said bank, the said William did, on or about the 9th of October, 1827, become such nominal endorser for me on several promissory notes, four in number, amounting to $42,090; that at the time the said William was a very young man, being with me, without any property or expectations, relying on his own exertions and industry for his daily support; and that these facts, and his utter irresponsibility were well known to said bank and its officers at the time of the said agreement between them and me to receive said William as a nominal endorser, and at the time said William endorsed said four notes; that subsesequently, said bank instituted suits on said four notes against me and against said William in the circuit court for this district, and obtained judgments thereon, in May, 1829; that as in relation to the former suits, so in these, I employed counsel, and took the sole management and control thereof. That after the said judgments were obtained by the bank, and while they were in full force, the said bank, still holding the said mortgage of October, 1821, applied to me to change the security it so held, and to execute a deed of trust upon all the property embraced in the said mortgage, and to appoint two of the officers of said bank the trustees, to which I yielded, only insisting that Moses Tabbs, a friend and nominee of my own, should be associated as trustee with those nominated by the bank; and on or about the 2d of November, 1829, I executed and delivered to the said Moses Tabbs and to Roger C. Weightman, the cashier, and Richard Wallach, the attorney of said bank, a deed of trust of all the property comprehended in the mortgage of 22d October, 1821, on the terms and conditions prescribed by the

said bank, and conferring on them more unlimited and unreserved control than the said bank possessed under said judgments or mortgage; and upon the earnest demand of the said bank, I executed and delivered to the aforesaid Weightman, Wallach, and Tabbs, on the 4th day of December, 1829, another deed of trust of a very large and valuable real estate in this district on similar terms and conditions described by said bank for the uses and purposes therein set forth; that both of said deeds of 2d November and 4th December, 1829, were made by me most reluctlantly, and only upon the urgent solicitation of the bank who threatened in case of my refusal to proceed immediately under the mortgage of 22d October, 1821, and to sell the house over my head under an execution, on one of said judgments so held by said bank, and which execution was then in the hands of the marshal, and should he levied on the house in which I lived; and it was expressly stipulated and agreed by and between the said bank, its president, officers, and myself, that if I would execute the said deeds of trust, that the said execution should be withdrawn; and that the said bank would forbear all further proceedings against me, and against the said William, or any and all of the aforesaid judgments, as well on three notes first above named, as on the last four notes, and that it would forbear to sell my dwelling-house, my servants, or any of my personal property, or other valuable property, from which I derived a necessary income for the support and maintenance of my family and self; and that I should remain in the full and uninterrupted possession and enjoyment thereof, until all the property embraced in and conveyed by said two deeds of trust should be first exhausted, and the trusts fully executed; and it was only upon this express understanding and agreement between the said bank and myself, that I consented to execute the aforesaid deeds, and in pursuance and virtue thereof, I did execute said deeds on my part; and the said bank did actually stop the proceedings on said execution, and direct the marshal to return the same, nulla bona, and did suffer and permit the property above named, and bound thereby and by the other judgment, to remain in my possession and enjoyment; and that the said William in no manner participated in the said stipulations and agreements between the said bank and me, nor do I know or believe that he knew of them at the time. That the property thus left at my disposal was a large and valuable property; that some of the slaves have since run away, some property has been destroyed by fire, and that the property has much *detiorated*, as I had not the means left to keep it in repair, being obliged to use all the revenue it yielded in educating and maintaining my large family and self. That the property embraced in the mortgage of 22d Oct'r, 1821, and my personal and other property in this district bound by the aforesaid judgments held by the bank was largely and greatly more than sufficient to pay all the debts I owed in the world, (including those I owed to the Bank of Washington,) at the time when the said bank in-

sisted on my executing the said two deeds of trust, and when I executed the same, that Roger C. Weightman and Richard Wallach assented to and accepted said deeds, and assumed upon themselves the right and obligations imposed upon them by the same at the special instance of said bank; that I never gave them, or either of them, any instructions or directions, but believe that in all their acts and doings under the same they followed the directions of said bank, and acted as its agents; and that said bank was virtually the trustee, and assumed the direction and management of the said property, and directed the advertisements and postponements of the same, on various occasions, from February, 1830, till July, 1842. That by the acts and doings of the said bank, the said trust property has greatly deteriorated in value, and so dimished in quantity as to have become insufficient to pay any large proportion of the debt still alleged by said bank to be due on account of said judgments. That the property conveyed by me in said two trust deeds was at the time assessed for taxation at about $300,000 or upwards, and that had the same been judiciously and properly managed, that had the bank or the trustees proceeded to sell the same within a reasonable time, and at proper times, it would have paid greatly more than all my debts; that had the mortgage been enforced, and the judgments proceeded on by execution and sale, the property included within and bound by the same would far more than have paid the whole of the debt to the said bank, with all interest and costs, and I should have been the gainer by it. That said Moses Tabbs and Richard Wallach are both dead, and that I have urged said Roger C. Weightman years since to settle and adjust his trust account of the property conveyed by me as above; that I have repeatedly called upon said bank and its officers to furnish statements and accounts showing the condition of my debts, how much was still due, or claimed to be due, what proceeds of trust property it had received, which requests it always neglected or evaded; and I have understood and believe that the said William had made similar requests of the said bank, and that it had also neglected answering them; that I have urged the said bank over and over again most beseechingly to give me some information on these subjects, and which they have always most cruelly neglected.

That the said bank, notwithstanding the agreements aforesaid, instituted proceedings against me in the year 1834, in the Baltimore county court, and sued out an attachment against me on three of the aforesaid judgments, on which it obtained a judgment of condemnation for $31,451 $\frac{5}{100}$ with interest, and under which a levy was made on 1,295 acres of my land in said county, and which land was appraised by sworn appraisers at $45,325; that under said levy, the sheriff of said county sold about 595 acres of said land for about $8,500; that no other proceedings have been had in said attachment case that I know of, nor do I know what disposition the bank has made of the residue of said land.

That the said bank has not, I believe, given me the credits on said judgments to which I am entitled, or at the times when the same ought to have been credited. That in or about the autumn of 1836, the said Bank of Washington, its president and officers, proposed to me to give them a deed of trust of all my property in Kentucky and in Maryland, further to secure the aforesaid judgments; that I had several interviews with them on this subject, and the negotiation was pending some time; that said bank and its officers, on or about the 30th September, 1836, directed an execution to be issued against me on one of the aforesaid judgments against me and directed the same, on or about the 6th October, 1836, to be levied on my residence; that on the 10th October, 1836, writs of execution upon three others of the aforesaid judgments were issued against me, and which the said bank and its officers directed the marshal of this district to make a private levy on *on* my personal property, and to leave the same in my hands, if William Brent would become security for the forthcoming of the property; that William Brent did become my security, and that the said property was accordingly left in my hands; that on the 11th October, 1836, the said marshal did levy the aforesaid four executions on my house, which was appraised at $16,800, and that further proceedings thereon were suspended by order of plaintiff's attorney; and that on the same day, the said marshal also made a private levy on my personal property, valued at $3,212, which was left in my hands on the security of said William Brent, and that further proceedings thereon were suspended by order of the plaintiff's attorney; that in the autumn of 1836, I expressly refused to give to the said bank any deed of trust of my Maryland property, as the said bank, its president and officers, had proposed to me to do, and never afterwards consented to give them said deed or deed a of trust of any other of my property excepting a deed of trust of my Kentucky property, which I then very reluctantly consented to give, upon the following arrangement and agreement with the said bank, to wit: that in consideration of my agreeing to execute a deed of trust, of my large and valuable property in Kentucky, further to secure my aforesaid indebtment to said bank, the said bank, its president and officers, did expressly stipulate and agree with me that the said bank would not proceed upon their judgments in the District against any of my property, real or personal, nor against the said William, until all the property in Kentucky so to be conveyed should be first exhausted according to the provisions of said intended deed, and the proceeds applied to the payment of said debts; that in execution of said agreement and understanding between the said bank, its president and officers, and myself, the bank did, by its attorney, on or about the 13th December, 1836, order and direct executions to issue upon three of the aforesaid judgments against me in this District, and upon all the aforesaid judgments against the said William, and that such executions should lie in the clerk's

office, and not go into the hands of the marshal; and that in conformity with the terms and stipulations of said agreement, I did, on or about the 6th March, 1837, execute and deliver a deed of trust of my Kentucky property, which the said bank accepted at the time in full execution of the said arrangement and agreement to that effect so previously made between it and me; that said William did not participate in said arrangement and agreement as aforesaid, nor do I know or believe that he had any knowledge thereof; that the said bank omitted to cause the aforesaid deed of 6th March, 1837, of the said Kentucky property to be recorded in due season, and that the same was never in fact recorded as required by law, and became wholly inoperative; and that I did, on or about the 4th day of October, 1837, at the special instance and request of the said bank, its president and officers, execute another deed for said Kentucky property, and that the said bank accepted the said deed in lieu of, and as a substitute for the said deed of 6th March, 1837; that the said deed contained provisions varying from those contained in said previous deed of 6th March; that said William did not participate in the negotiation or arrangement for this deed of the 4th of October, 1837, nor do I know or believe that at the time he had any knowledge of the same; nor do I know that the grantees therein, the trustees, except Wm. Gunton, had at the time any knowledge of said substitute deed of 6th October, 1837; that I never consented to give the said bank a deed of trust of my Maryland property, but always expressly and unequivocally refused so to do whenever the same was mentioned to me; that on the 6th March, 1837, when I executed the said deed of trust of my Kentucky property, I believe that the said Kentucky property and my property in Maryland were well worth $60,000 or upwards, and would sell for more than I then owed the said bank; that at or about the time I consented and agreed to give to said bank a deed of trust of my Kentucky property, and before I executed the aforesaid deed of 6th March, 1837, appointing Wm. Gunton, then the president of the said Bank of Washington, and Charles H. Carroll, and Daniel H. Fitzhugh, trustees, it was expressly understood and agreed between me and the said trustees, and the said William Gunton, acting as the agent of the said bank, and president of the same, that I was entitled to large credits on the judgments enumerated in said deed; that the amount due thereon was wholly uncertain, and that before the said trustees proceeded to sell any of the aforesaid property in Kentucky, the said bank should furnish the said trustees with a full statement, exhibiting the balance then due by me to the said bank, after allowing me all the credits to which I was legally and equitably entitled; and that thereupon the said trustees should proceed to sell such portion of the said Kentucky property as would pay such ascertained balance; that said Carroll and Fitzhugh, two of said trustees, and in both of whom I reposed entire confidence, agreed to execute said trusts, and as-

sumed upon themselves the performance thereof, as well after the deed of 6th of October, 1837, as after the previous deed of 6th March, 1837; that they, in pursuance of the aforesaid understanding and agreement, and with a view to enable them understandingly and with a due regard to all the interests confided to them to perform their said duties as trustees, called upon said bank for a precise and full statement of the account between the said bank and myself, and which the said bank neglected and omitted to furnish; that said Charles H. Carroll repeatedly called upon said bank to furnish such a statement; that the said bank promised him from time to time to comply with said request, but that said bank has never furnished, either to him or said Fitzhugh any such statement; that said Carroll and Fitzhugh always professed themselves willing and desirous to execute the said trusts in a just and full manner, by selling the said Kentucky property and applying the proceeds thereof to the payment of the debts due by me to the said bank, whenever the amount of the same could be ascertained, and that they were defeated and prevented from the due execution of said trusts by their co-trustee, the said Wm. Gunton, president of the said bank, acting in the premises as the agent, with the knowledge, assent, and full approbation of the said bank; that I was always willing and ready to confirm all the acts of the trustees, or of a majority of them, and to make conveyances, if necessary or desired, confirming all sales made by them; that the said Wm. Gunton, acting as the agent of said bank, and with its full knowledge and approbation, and without the knowledge or assent of his co-trustees, advertised in the Louisville newspaper, on the 16th September, 1840, that the lands conveyed by the said deed of 4th October, 1837, would be sold on the 1st day of October, 1840; that said Gunton actually attended in person in Louisville, on said 1st of October, 1840, to carry into effect said intended sale, which would have proved ruinous to all interested, and which intended sale was forbidden and prevented by his co-trustees; that the said bank wholly omitted to furnish the said trustees said statements, or to specify any particular balance claimed by it; that said Gunton, with the knowledge and assent of the said bank, prevented the sale of the Kentucky lands by the trustees, in a fair and open manner, and attempted a sale thereof in violation of his duty and in breach of the confidence reposed in him; that upon a partial representation of these facts made by said bank to me, and without a full and candid disclosure of all the circumstances, the said bank, through the agency and instrumentality of James Adams, the cashier of said bank, prevailed upon and induced me, on the 24th of September, 1840, to make and execute another instrument of writing, materially varying and changing the provisions of the said deed of 4th October, 1837, giving to said bank a more absolute control over said Kentucky property; that I made and executed this instrument of writing at the special instance and request of the said bank and its

officers; that the said William did not in any manner participate therein, nor do I know or believe that he had any knowledge thereof at the time. That at the time I executed said instrument of 24 September, 1840, the said Adams informed me that the said William had declined to give any assent to any postponement of the sale of the said Kentucky property by the aforesaid trustees; that the said bank omitted and neglected to have said instrument of 24th September, 1840, recorded in Kentucky, but suppressed the same, and afterwards filed a bill (making no mention of s'd instrument) in the Trimble circuit court of said State against me, against the said trustees, Charles H. Carroll, Daniel H. Fitzhugh, and against the said William T. Carroll, of which I had no actual notice, nor do I believe had any of the other defendants, except the said Gunton; that said suit was conducted secretly, and a decree therein obtained, pro confesso, for the want of appearance and answer; that these facts came to my knowledge only about the time such decree was obtained, or immediately thereafter; that upon learning of such clandestine proceedings against me, I applied to said court to have said decree opened, and filed my answer, and that said suit is still pending and undetermined in said court; and that at the same time the said William also filed his answer and a cross-bill against the said bank; that the said proceeding is still pending and undetermined in the said circuit court, and that the said bank has not yet answered the said cross-bill that I have heard or know of; that the said bank never informed me that it had directed said bill against me, but did so, and conducted the proceedings in said suit in a clandestine manner, with the view, I believe, of obtaining undue and fraudulent advantages of me. That in November, 1842, I filed in the circuit court of the United States for this district and county a bill against the said bank, praying an account and relief, upon which bill an injunction was granted, restraining said bank from further proceedings against me, on any of the said judgments, or under any of the aforesaid mortgages, deeds of trust, or agreements, and that the said bank has not yet filed an answer to said bill; that I have exerted myself with all possible diligence, and have used all the means in my power to ascertain, as well from said bank as from other sources, what amount is due from me to said bank, and have been unable to do so; that it is very doubtful what balance is now due by me on the aforesaid judgments, but whether large or small, the bank and its officers looked to me for payment, and acted in the premises solely in reference to my responsibility, and never professed to look to the said William, or hold him responsible for any part of it, from 1826 down to 1836 or 1837.

That the aforesaid trustees, Charles H. Carroll and Daniel H. Fitzhugh, never neglected or refused to execute the trusts reposed in them by the aforesaid deeds of 6th of March, 1837, or the 4th of October, 1837, or by the aforesaid instrument of writing of the 24th of September, 1840, but always avowed their willingness and

readiness so to do in good faith. That before and when I executed the aforesaid deed of 6th of March, 1837, for the Kentucky property, there were pending in the courts of said State two suits against me, the aforesaid Charles H. Carroll and others, involving the title to said property; that said bank knew of the said suits; and at and before I executed said deed of 6th March, 1837, it was expressly understood and agreed between said bank, and its president and officers, and the said Charles H. Carroll and myself, that the said bank would unite with the said Charles H. Carroll in resisting and defending the said two suits, and that it would advance and pay one half of the costs and expenses incurred or necessary in closing the same; and the said bank and its president then requested the said Charles to continue his attention to them, and promised him, the said Charles, to reimburse him the one-half of all the moneys which he expended therein; that the said Charles did continue to give his time, labor, and attention to the same; that he resisted them both successfully, and obtained decrees in both settling the title in our favor; and that in so doing the said Charles expended large sums of money, amounting in the whole, as I have understood and believe, to about $4,000, and of which, or any part thereof, the said bank have omitted to reimburse him, and now refuse so to do. That the said William did not participate in any of the aforesaid arrangements or agreements made between me and the said bank and its officers from the autumn of 1828 down to November, 1840, nor during any part of the intermediate period, there being during the whole of that period, from the autumn of 1828 to November, 1840, an unfortunate misunderstanding between us, which prevented any correspondence or intercourse between us during the whole of that time; that during that period, (between the autumn of 1828 and November, 1840, aforesaid,) at the time when Wm. Gunton was president of said bank, he, the said Gunton, always induced me to believe in all his conversations and representations that the said William T. Carroll opposed any and every arrangement, giving me further time for the payment of the aforesaid judgments held by the said bank, or postponing the sale of my property; and that the said William always advised and urged the said bank to sell my property forthwith, and at any sacrifice, so as to pay and satisfy the aforesaid judgments.

That Samuel H. Smith was the president of said Bank of Washington during the years 1826 and 1827. That George Calvert was president of said bank during the years 1828 and 1829, or the greater part thereof; and that he was succeeded by Thomas Munroe, who was the president thereof for several years. That William Gunton was president of said bank during the year 1836, and has thus continued to be ever since that time, and still is the president of said bank; that William A. Bradley was the cashier of the said Bank of Washington during the years 1826 and a part of 1827; that Roger C. Weightman was cashier of said bank in the autumn of

1827, and during the years 1828, 1829, and 1830, and for some years thereafter; that James Adams was the cashier of the said bank in the autumn of 1836, and has continued to be ever since that time, and still is the cashier of said bank; that Richard Wallach was the attorney of said bank during the year 1829; that Johnson Hellen was the attorney of said bank during the year 1836, and has continued to be said attorney ever since that time, and still is the attorney of the said bank; and all of the aforesaid arrangements and agreements stated by me as aforesaid to have been made between the said bank and its officers and myself, were so made and agreed upon at the time and times so as aforesaid by me stated, between me and the aforesaid officers of said bank, or some one or more of them at the aforesaid time or times respectively, as herein stated by me.

That I am now upwards of eighty years of age, and of infirm health.

DANIEL CARROLL,
Of Dud'n.

(Vide page 89 for conclusion of deposition to be here inserted.)
Vide p. 93 for notice of taking deposition.

Deed of corporation of Wash'gton to Jno. France.

This indenture, made this twenty-eighth day of March, in the year of our Lord one thousand eight hundred and fifty, between the mayor, board of aldermen, and board of common council of the city of Washington, of the first part, and John France, of the same city, of the second part: whereas, the said corporation, by virtue of the power in them vested by their charter, have, from time to time, laid and imposed certain annual taxes on all the real and personal assessable property within the said city, agreeably to the several assessments thereof, and have by sundry acts providing for the collection of such taxes enacted "that whenever two or more years' taxes on real property, whether improved or unimproved, in the city of Washington, shall remain due and unpaid, or whenever any special tax on any real property shall remain unpaid for two or more years after the same shall have become due, it shall be the duty of the collector in whose hands such taxes may be placed for collection to sell such real property, or so much thereof, not less than a lot, (when the property on which the tax has accrued is not less than that quantity,) as may be necessary to pay any such taxes, with all legal costs and charges thereon, at public sale, to satisfy the said corporation therefor," subject, however, to the terms, conditions, provisos, and restrictions as are in the said acts mentioned, first giving such notice of the time and place for the sale as said acts require. And whereas, lot number nine and improvements, in square numbered six hundred and eighty-seven, lying and

being within the said city became chargeable as the property and in the name of Alfred R. Dowson, with the following taxes, that is to say: $43 28 cts. balance, for the years 1844, 1845, and 1846, the sum of two hundred and twenty-nine dollars and eighty-four cents; and whereas, the property before described having become liable to be sold under the act in part above quoted, Andrew Rothwell, the collector, in whose hands the said taxes were placed for collection, failing to collect them in any other way, after having previously given public notice for the sale by advertisment thereof twelve successive weeks next before the day of sale, in the National Intelligencer, a newspaper printed in the city of Washington, therein describing as above the said property, to whom assessed at the time of such advertisement, the amount of taxes due, and the years for which the same was due, did offer for sale at public auction, on the eighth day of December, A. D. eighteen hundred and forty-seven, all of said lot and improvements, to pay the said taxes and the expenses attending the sale, when the said John France, being the highest bidder, became the purchaser thereof for the sum of two hundred and thirty-seven dollars and five cents, and there paid to the said collector the taxes aforesaid, together with the expenses attending said sale, amounting to the sum of two hundred and thirty-seven dollars and five cents; and more than two years having elapsed since the day of said sale, and the said property not having been redeemed, as by law provided, the said party of the second part has become entitled to a conveyance thereof: Now, therefore, this indenture witnesseth, that the said mayor, board of aldermen, and board of common council, parties of the first part, in consideration of the premises, and of the sum of one dollar in current money to them in hand paid by the said party of the second part, at or before the sealing and delivery of these presents, the receipt of which is hereby acknowledged, have granted, bargained, and sold, and by these presents do grant, bargain, and sell unto the said party of the second part, his heirs and assigns forever, all the hereinbefore described lot number nine and improvements, in square number six hundred and eighty-seven, with the appurtenances, to have and to hold the said premises with the appurtenances unto the said party of the second part, his heirs and assigns forever, to his and their use.

In testimony whereof, the mayor of said city hath hereunto set his hand, and caused the seal of the corporation to be affixed, on the day and year first above written.

[L. S.]

W. W. SEATON, *Mayor.*

Attest: W. J. McCORMICK, *Reg'r.*

DISTRICT OF COLUMBIA,
Washington county, sct.

Be it remembered, that on this twenty-eighth day of March, in

the year of our Lord one thousand eight hundred and fifty, before the subscribers, two justices of the peace in and for the county of Washington, personally appears William W. Seaton, esq'r, mayor of the city of Washington, and acknowledges the foregoing indenture or instrument of writing to be the act and deed of the mayor, board of aldermen, and board of common council of the city of Washington, delivered for the use and purposes therein expressed.

C. H. WILTBERGER,
J. P.
WM. J. McCORMICK,
J. P.

Advertisement of 7th October, 1826, referred to in plaintiffs' 1st bill of exceptions, page 23.

Public sale of valuable houses, household furniture, and slaves.

By virtue of a deed of trust, we will sell at public auction on Wednesday, the 8th of November next, on the premises, those two spacious, commodious, and valuable houses, at present occupied by Mr. A. R. Dowson, on the Capitol hill, as congressional boarding-houses. They were built expressly for and are admirably calculated to accommodate large messes, with every convenience within and without doors, either for boarding-houses or for a large tavern. They might speedily be converted into splendid dwellings. No building can be located nearer to the Capitol.

Equal payments of 1, 2, and 3 years, secured by notes satisfactorily endorsed, and bearing interest, will be required.

At the same time, all the household and kitchen furniture, the plate, and a number of valuable slaves, brought up as house servants, will be sold upon a credit of six months, for all sums over $20, secured by notes well endorsed, and bearing interest, and for all sums under $20 cash must be paid. The sale will commence at 10 o'clock.

WILLIAM A. BRADLEY,
JOHN H. RILEY,
Trustees.
P. MAURO, *Auct'r.*

Octo. 7th.

Advertisement of 9th Nov'r, 1826, referred to in plaintiffs' 1st bill of exceptions, page 23.

"Public sale."

By virtue of a deed of trust, we will sell at public auction, on Monday, the 8th November next, on the premises, those two spacious, commodious, and valuable houses, at present occupied by Mr.

A. R. Dowson, on the Capitol hill, as Congressional boarding-houses.

They were built expressly for and are admirably calculated to accommodate large messes, with every convenience, within and without doors, either for boarding-houses or for a large tavern. They might be readily converted into splendid dwellings. No buildings can be located nearer to the Capitol.

Equal payments of 1, 2, 3 years, secured by notes satisfactorily endorsed, and bearing interest, will be required.

W. A. BRADLEY,
JOHN H. RILEY,
Trustees.

The above sale which was to have taken place yesterday was postponed, and will positively take place this morning, at precisely

"*Assessment*" *referred to in plaintiffs' 3d bill of exceptions, page* 28.

	Name.	Ward.	Sqr.	Lot.	Value of lot.	Value of imp.	Pers'l prop'y.	Total.
1844.	Dowson, A. R.	4	687	of 9	895	10,000		
				" 9	245			
				"10	351			
				"11	462			
				"12	484			$12,437

1845. The same as above.
1846. The same.

Advertisement of tax sale.

City property to be sold for taxes.

COLLECTOR'S OFFICE,
City Hall, Sep. 13th, 1847.

On Wednesday, the 8th December next, the annexed list of property will be sold by public auction, at the City Hall, in the city of Washington, to satisfy the corporation of said city for taxes due thereon, as stated, unless said taxes be previously paid to the collector, with such expenses and fees as may have accrued at the time of payment. Sale to commence at 11 o'clock. Terms cash.

No. of sq'r.	No. of lot.	To whom assessed.	Years for which taxes are due.	Taxes on each lot.	Total.
687	9 & p. 10, 11, 12, & imp.	Dowson, A. R.	43, 28, 93, 28, 93, 28.		$229 84

The advertisements were inserted in the Intelligencer, 1847, Sept. 15th, Wednesday, Sept. 22d, Thursday, Octo. 5th, 12th, 19th, 26th, Nov. 2d, 9th, 16th, 23d, 30th, Dec. 7th.

Sq.	Lot.	To whom assessed.	Return of sale	Exps. tax.	Purchaser.	Paid.	Deed.
687	9 & imp.	A. R. Dowson.	229 84	7 21	Jno. France.	237 05	1850, Nov. 28.

Admitted purchase-money paid by John France.

Sworn to before me the 11th day of November, 1843. The above deposition was taken by me at the time and place mentioned in the annexed notice, the same having been begun on the said 11th day of November, and not being completed on that day, the further taking of the same was adjourned until Tuesday, the 14th day of November instant, at the same place, and at the same hour of ten a. m., when the same was concluded in the presence of William T. Carroll, and his counsel, Richard S. Coxe, esquire—the said Daniel Carroll, of Duddington, having been first by me, mayor of the city Washington, carefully examined, cautioned, and sworn to testify to the whole truth. The said deposition is in the handwriting of a clerk employed by me for that especial purpose, and written down by him under my supervision, the counsel for the parties on both sides having agreed that it should be so written as appears by the annexed agreement. The said deposition was carefully read over by me to the witness, and signed by the witness in my presence as aforesaid. The reason for taking the same is, that the deponent is very ancient and very infirm.

W. W. SEATON,
Mayor of the city of Washington.

DEAR SIR: On behalf of Mr. W. T. Carroll, in his case against the Bank of Washington, in conformity with the notice given to the bank and its attorney, we proceeded this morning to begin the examination of Mr. Daniel Carroll. No one was present on the part of the bank, and we understand that the bank will object to the competency of Mr. Carroll as a witness. Mr. Seaton, as mayor of the city, is the officer before whom the deposition is taking—or to use modern phrase being taken. It will be a matter of great convenience to Mr. Seaton personally if you, on the part of the bank, will, reserving all other objections, agree that the deposition, such as it is, may be reduced to writing by a clerk employed for that especial purpose, waiving merely the objection growing out of the requirement of the act of Congress that the deposition of the witness be reduced to writing by the witness, or by the magistrate.

This application is made to you because Mr. Hellen is understood to have referred us to you in all these matters.

Yours, truly,
RICH'D S. COXE.

Nov'r 9th, 1843.
JOHN MARBURY, Esq.

In behalf of the B'k of Washington, I consent that Mr. Seaton

shall appoint a clerk to write down the testimony under his supervision—reserving every other objection which the bank may have a right to make to the competency of the witness to testify, or the admissibility of the deposition when taken.

JNO. MARBURY.

Nov'r 9th, 1843.

I also agree to the above in the words used by Mr. Marbury.

JOHNSON HELLEN,
Att'y of the Bank of Washington.

9th Nov'r, 1843.

WILLIAM T. CARROLL, complainant, against THE PRESIDENT, directors, and company of the Bank of Washington.

A cause depending in the circuit court of the United States for the District of Columbia, and county of Washington.

DISTRICT OF COLUMBIA,
And county of Washington, to wit:

I, William W. Seaton, mayor of the city of Washington, in the District of Columbia, do hereby certify that the aforegoing deposition of Daniel Carroll, of Duddington, was taken before me at the residence of the said Daniel Carroll, of Duddington, in the said city, it having begun on the eleventh day of November, in the year of our Lord one thousand eight hundred and forty-three, and not being then completed, the further taking of the same was adjourned over to Tuesday, the 14th of November, at the same place, at 10 o'clock a. m., when the same was completed; the said Daniel having been by me first carefully examined, cautioned, and sworn, to testify the whole truth relative to the aforementioned cause or matter in controversy. That the aforesaid deposition is in the handwriting of a clerk employed by me for that especial purpose, and written down by him under my supervision, the counsel for both parties having agreed that it should be so written, as appears by the annexed agreement. That the said deposition was carefully read over by me to the witness, and was by the witness subscribed in my presence as his deposition in the premises.

That the annexed notices were issued by me, and returned with the acknowledgments of service upon the backs thereof. That William T. Carroll, and his counsel, Richard S. Coxe, esquire, were present at the taking of the said deposition, and no one appearing

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on the part of the defendants. I further certify that I am not of counsel or attorney to either of the parties, nor interested in the event of the cause. That the reason of taking the said deposition is, that the witness is ancient and very infirm. And I do further certify that the aforegoing deposition is by me sealed up, and directed to the circuit court of the United States for the District of Columbia and county of Washington, at Washington city.

In testimony whereof, I have hereunto set my hand and seal, on this 14th day of November, eighteen hundred and forty-three.

[L. S.]

W. W. SEATON,
Mayor.

CIRCUIT COURT OF THE UNITED STATES,
For the District of Columbia, and county of Washington.

WILLIAM T. CARROLL, complainant,
against
THE PRESIDENT, DIRECTORS, and Company of the Bank of Washington.

To JOHNSTON HELLEN, Esq'r:

SIR: Take notice, that on Thursday next, the 9th of November instant, at ten o'clock a. m., at the residence of Daniel Carroll, of Duddington, in the city of Washington, I shall proceed to take the deposition of the said Daniel Carroll, (who is ancient and very infirm,) to be read in evidence, in the case of William T. Carroll against the president, directors, and company of the Bank of Washington, a civil claim or suit depending in the circuit court of the United States for the District of Columbia, holden in and for the county of Washington, in which you are attorney for the president, directors, and company of the Bank of Washington aforesaid. You are notified to be present at the taking of the deposition of the said Daniel Carroll, and to put interrogatories to the said Daniel Carroll if you think fit.

As witness my hand and seal of office, at Washington city, this 7th day of November, eighteen hundred and forty-three.

[SEAL.]

W. W. SEATON,
Mayor.

Attest: C. H. WILTBERGER.

Service acknowledged on this 7th of Nov'r, 1843.

J. HELLEN.

To the president, directors, and company of the Bank of Washington:

Take notice, that on Thursday next, the 9th of November instant, at ten o'clock a. m., at the residence of Daniel Carroll, of Dudding-